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COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

In the Matter of the Estate of ROBERT ANTHONY WILLIAMS, JR., Deceased. BETTY MADRID, BRAD BEAMAN, and BRANDON BEAMAN, Claimants, Appellants, v. APRIL KAISER, Personal Representative; and KERRY NEWMAN, Claimant, Appellees.	2 CA-CV 2008-0016 DEPARTMENT A MEMORANDUM DECISION Not for Publication Rule 28, Rules of Civil Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF COCHISE COUNTY

Cause No. PB-200500256

Honorable Stephen M. Desens, Judge
Honorable James L. Conlogue, Judge

AFFIRMED IN PART; VACATED IN PART

Kenneth Owen — Castro Valley, California
Attorney for Appellants

Edward W. Matchett — Bisbee
Attorney for Appellee Kaiser

Borowiec, Borowiec & Russell, P.C.
By Anne M. Borowiec — Sierra Vista
Attorneys for Appellee Newman

B R A M M E R, Judge.

¶1 Appellants, Betty Madrid, Brad Beaman, and Brandon Beaman, appeal the trial court's denial of their claims against the estate of Robert Anthony Williams, Jr. They advance numerous arguments on appeal. Although we affirm in part, we vacate the trial court's order sanctioning Madrid pursuant to Rule 11, Ariz. R. Civ. P.

Factual and Procedural Background

¶2 We view the facts in the light most favorable to sustaining the trial court's judgment. *In re Estate of Pouser*, 193 Ariz. 574, ¶ 2, 975 P.2d 704, 706 (1999). Robert Anthony Williams, Jr., died intestate on October 4, 2005. Madrid, who had lived with Williams from February 2002 until his death, filed a claim against Williams's estate asserting she had loaned Williams a total of $34,750, which he had not repaid. She also requested approximately $11,000 in attorney fees and costs related to the pursuit of her claims.[1]

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[1]Madrid does not appeal the denial of her attorney fee request made in her claim against the estate.

Madrid also filed claims against the estate on behalf of her two minor relatives, Brad and Brandon Beaman, who had lived with Madrid and Williams. Madrid claimed the Beaman children were entitled to a family maintenance allowance and a homestead allowance from Williams's estate, pursuant to A.R.S. §§ 14-2404(A) and 14-2402(A), respectively. The estate disallowed the claims, and Madrid petitioned the trial court to allow her and the Beaman children's claims. *See* A.R.S. § 14-3806.

¶3 After considering Madrid's memorandum and accompanying affidavits in support of the Beaman children's claims, the trial court denied the claims, concluding that, "as a matter of law," they had "no basis or merit" because "[t]here is not nor has there ever been any legal obligation of the decedent to support [the Beaman] children" and they "have absolutely no legal and/or blood relationship to the decedent." And, after a hearing at which Madrid testified, the court denied Madrid's claim, noting that she "ha[d] failed to meet her burden of proof that there was an oral agreement between her and the decedent whereby he agreed that the claimed sums were a loan to him and he agreed to pay her back." This appeal followed.

Discussion

Unsigned recusal order

¶4 In February 2006, before any merits hearings had occurred, the trial judge to whom the case had originally been assigned recused himself in an unsigned order. The Cochise County Superior Court administrator reassigned the case to Judge Stephen Desens,

who presided over the probate and signed the judgment from which Madrid appeals. Citing Rule 58(a), Ariz. R. Civ. P., Madrid first contends that the trial judge originally assigned to the case was required to sign the order recusing himself. Because he did not, she reasons, his recusal was ineffective,

> the case could not have been referred to the Court Administrator for reassignment[,] . . . the Court Administrator could not reassign the case to Judge Desens[,] . . . Judge Desens never had authority to issue any orders in the probate matter[, and,] [t]hus, any orders signed and filed by Judge Desens are null and void.

¶5 Rule 58(a) states that "all judgments shall be in writing and signed by a judge." Relying on *Lamb v. Superior Court*, 127 Ariz. 400, 62 P.2d 906 (1980), Madrid contends that Rule 58(a) applies to minute entry orders and, "[u]ntil the order is in writing, signed by the court and entered by the clerk of the court, it is not effective." Madrid is correct that Rule 58(a) can apply to court orders. "The word 'judgment' . . . is commonly understood to mean the act of a court which fixes the rights and liabilities of the respective parties." *State v. Birmingham*, 96 Ariz. 109, 112, 392 P.2d 775, 777 (1964). Orders, therefore, must be signed and in writing "if settling the rights of litigants to the extent an appeal lies." *Id.; see also* Ariz. R. Civ. P. 54(a), ("'Judgment' as used in [the Rules of Civil Procedure] includes . . . an order from which an appeal lies."). "[I]ntermediate orders," however, "which by their nature do not settle the ultimate rights of the parties and from which no appeal is allowed . . . need not be in writing or signed in order to be effective." *Birmingham*, 96 Ariz. at 112, 392 P.2d at 777. The original judge's recusal order did not affect the rights

of the parties and was not appealable. *See* A.R.S. § 12-2101; *see also Birmingham*, 96 Ariz. at 111, 392 P.2d at 776. It, therefore, was effective although unsigned. *Birmingham*, 96 Ariz. at 112, 392 P.2d at 777.

Rule 11, Ariz. R. Civ. P., Sanctions

¶6 In January 2006, Madrid filed an "Objection and Request for Formal Probate Proceeding" in which she objected to the appointment of April Kaiser as the estate's personal representative. At a hearing that March, the trial court dismissed Madrid's objection, noting she did not have standing to object because she was not an "interested person" entitled to file an objection or request formal proceedings.[2] *See* A.R.S. §§ 14-3105(A) and 14-1201(26). The estate requested sanctions against Madrid's attorney pursuant to Rule 11, Ariz. R. Civ. P., and filed an affidavit detailing the attorney fees and costs the estate had incurred in opposing that claim. The court granted the estate's request for sanctions and ordered Madrid and/or her attorney to pay the estate attorney fees and costs in the amount of $3,123.75. Madrid asserts the court erred in granting the estate's request for sanctions against her and her attorney. We review a trial court's decision to impose Rule 11 sanctions for an abuse of discretion. *See State v. Shipman*, 208 Ariz. 474, ¶ 3, 94 P.3d 1169, 1170 (App. 2004); *James, Cooke & Hobson, Inc. v. Lake Havasu Plumbing & Fire Prot.*, 177 Ariz. 316, 319, 868 P.2d 329, 332 (App. 1993).

[2]With the trial court's permission, Madrid later amended and renewed her objection and request for formal proceedings. The court denied her renewed objection to Kaiser's serving as the estate's personal representative but granted her request for formal probate.

¶7 Pursuant to Rule 11(a), a trial court may, on its own initiative or upon the request of a party, impose sanctions against a party who "knows or should have known, by reasonable investigation of fact and of law, that [a motion or pleading] is insubstantial, frivolous, groundless or otherwise unjustified." *James, Cooke & Hobson, Inc.*, 177 Ariz. at 319, 868 P.2d at 332; *see* Ariz. R. Civ. P. 11(a). Acceptable sanctions against an offending attorney or party may include the payment of costs, other expenses, and attorney fees, and may be assessed against either the offending party or attorney. *Boone v. Superior Court*, 145 Ariz. 235, 242, 700 P.2d 1335, 1342 (1985). In imposing sanctions, "[t]he trial court must make specific findings to justify its conclusion that [the sanctioned] party's claims . . . are frivolous." *Wells Fargo Credit Corp. v. Smith*, 166 Ariz. 489, 497, 803 P.2d 900, 908 (App. 1990).

¶8 Madrid first asserts "[t]he sanction against [her] is not appropriate in the present case because the [trial] Court made no specific findings to support its award." *See Wells Fargo Credit Corp*, 166 Ariz. at 497, 803 P.2d at 908 (vacating Rule 11 sanctions because, inter alia, trial court failed to "make specific findings to justify its conclusion"). After a hearing at which the court dismissed Madrid's objection and the estate moved for sanctions, the trial court instructed the estate to file an "appropriate pleading and affidavits for the request of attorney's fees" for the court's review. The estate filed an affidavit of its costs and attorney fees, but did not provide the court any memorandum or pleading supporting its oral request for sanctions. In its subsequent minute entry granting the estate's

request for sanctions, the court stated it had "reviewed and considered [the estate's request]" and that "no written objections ha[d] been filed." The court denied Madrid's motion for reconsideration of the sanctions, stating Madrid's objection "was improper[,] the way it was brought to the Court." But the mere fact that a filing is "improper[ly]" filed—presumably a reference to the court's conclusion that Madrid did not yet have standing to object to the appointment of the personal representative—does not alone justify sanctions under Rule 11. The court made no specific findings to support its apparent conclusion that Madrid "kn[e]w or should have known" her objection was "insubstantial, frivolous, groundless or otherwise unjustified." *James, Cooke & Hobson, Inc.*, 177 Ariz. at 319, 868 P.2d at 332; *see Wells Fargo Credit Corp.*, 166 Ariz. at 497, 803 P.2d at 908. Had the estate addressed this portion of Madrid's argument in any meaningful way, we may have been persuaded to reach a different result. Because it did not, we vacate the trial court's award of Rule 11 sanctions against Madrid and her attorney, Kenneth Owen.

Proof of Williams's death

¶9 Madrid next asserts Williams "may be alive." She contends "there is no evidence in the record to establish Mr. William[s]'s death" and, therefore, the trial court "was without jurisdiction to issue any orders in the probate proceedings." *See* A.R.S. § 14-1302(A)(1) (probate court has subject matter jurisdiction over "[e]states of decedents"). Although, as Madrid notes, neither she nor any other party "questioned [Williams's] death" below, challenges to subject matter jurisdiction cannot be waived and may be raised for the

first time on appeal. *See Health for Life Brands, Inc. v. Powley*, 203 Ariz. 536, ¶¶ 12-13, 57 P.3d 726, 728-29 (App. 2002). We review de novo the trial court's legal conclusions, including the question whether the court had subject matter jurisdiction, but will not disturb its factual findings unless clearly erroneous.[3] *See In re Estate of Newman*, 532 Ariz. Adv. Rep. 12, ¶ 13 (Ct. App. June 12, 2008); *In re Marriage of Crawford*, 180 Ariz. 324, 326, 884 P.2d 210, 212 (App. 1994).

¶10 Madrid readily admits that "several affidavits" submitted to the trial court "stat[ed] that Mr. Williams had died." In fact, Madrid herself had submitted an affidavit avowing Williams had "died intestate on October 4, 2005." Nonetheless, Madrid asserts these affidavits were insufficient to establish Williams's death because they were "conclusory and not made in accordance with accepted medical standards" and "a certified or authenticated copy of a death certificate . . . was never entered into evidence nor made part of the record."

¶11 Section 14-1107(1), A.R.S., requires that "[a] determination of death must be made in accordance with accepted medical standards." Although a certified copy of the

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[3]In passing, Madrid asserts that, because she had requested findings of fact and conclusions of law pursuant to Rule 52(a), Ariz. R. Civ. P., the trial court erred in failing to expressly find that Williams was deceased. But Williams's death was undisputed below, and "[i]t is unnecessary for the court to make findings on undisputed matters," even when such findings are requested pursuant to Rule 52(a). *Gilliland v. Rodriquez*, 77 Ariz. 163, 168, 268 P.2d 334, 338 (1954).

decedent's death certificate is prima facie evidence of death, § 14-1107(2), Madrid cites, and we find, nothing supporting her assertion that a death certificate is necessary to prove death. Rather, "[i]n the absence of prima facie evidence of death . . . , the fact of death may be established by clear and convincing evidence, including circumstantial evidence." § 14-1107(4). Thus, although a death certificate is prima facie evidence of death, it is not the only acceptable method of proving an individual is deceased. The trial court received two affidavits—one from Williams's adopted daughter and one from Madrid—avowing Williams had died on October 4, 2005. No one contested the statements the affidavits contained. Based on this evidence, we cannot say the trial court abused its discretion in implicitly finding Williams was deceased or erred in concluding it had subject matter jurisdiction to probate Williams's estate. *See Estate of Newman*, 532 Ariz. Adv. Rep. 12, ¶ 13.

Findings of fact and conclusions of law

¶12 Madrid contends the trial court erred by failing to make findings of fact and conclusions of law in its written judgment pursuant to Rule 52(a), Ariz. R. Civ. P. A trial court is required to enter findings of fact and conclusions of law when a party has timely requested them. *See In re $26,980.00 U.S. Currency*, 199 Ariz. 291, ¶ 7, 18 P.3d 85, 88 (App. 2000); Ariz. R. Civ. P. 52(a) (trial court "shall find the facts specially and state separately its conclusions of law" if requested by a party "before trial"). Madrid requested

findings pursuant to Rule 52(a) in July 2006, before any hearings on claims against the estate had begun, and repeated that request on multiple occasions.

¶13 The estate nonetheless suggests Madrid forfeited this issue on appeal because she wrote the form of judgment to which she now objects and did not assert the findings contained therein were inadequate. Where a trial court has not already entered the requisite findings and "the proposed findings that the parties submitted did not address all of the ultimate facts, the trial court [i]s required to supplement them." *Elliot v. Elliot*, 165 Ariz. 128, 134, 796 P.2d 930, 936 (App. 1990). "A litigant," however "must object to inadequate findings of fact and conclusions of law at the trial court level so that the court will have an opportunity to correct them. . . . Failure to do so constitutes waiver." *Id.* (Rule 52(a) issue preserved where party requested findings, court adopted party's proposed findings, and party raised insufficiency of findings in post-judgment motion); *see also Banales v. Smith*, 200 Ariz. 419, ¶ 8, 26 P.3d 1190, 1191 (App. 2001). Madrid failed to assert below that the findings were inadequate and, therefore, she has waived the issue.

¶14 In any event, the trial court complied with Rule 52(a). Rule 52(a)'s requirement that the trial court make findings of fact and conclusions of law if timely requested to do so is satisfied "if the findings of fact and conclusions of law are stated orally and recorded in open court following the close of the evidence or appear in an opinion or minute entry or memorandum of decision filed by the court." Ariz. R. Civ. P. 52(a). Here, the court stated its findings of fact and conclusions of law on the majority of the claims

against the estate in open court. The court's various minute entries contained its findings on every claim. Nothing more was required to comply with Rule 52(a) or to fulfill its purpose. *See* Ariz. R. Civ. P. 52(a); *In re $26,980.00 U.S. Currency*, 199 Ariz. 291, ¶ 7, 18 P.3d at 88 (Rule 52(a)'s purpose to "enable [appellate] court to examine the bases for the trial court's decision").

Motion to disqualify attorney Ramaeker

¶15 Madrid argues the trial court erred in denying her motion to disqualify Ramaeker as attorney of record for the estate because he was not an active member of the bar. The court denied Madrid's motion on the basis that it was unrelated to the probate and, therefore, was not properly before it. Madrid argues the court erred in denying the motion on that basis and requests that we remand this matter and direct the court to consider this issue on the merits. But, because Ramaeker voluntarily withdrew as counsel for the estate's personal representative the same day the trial court denied Madrid's motion to disqualify him, this issue is moot. We, therefore, do not address this issue further. *See Flores v. Cooper Tire & Rubber Co.*, 218 Ariz. 52, ¶ 24, 178 P.3d 1176, 1181 (App. 2008) ("The mootness doctrine directs that 'opinions not be given concerning issues which are no longer in existence because of changes in the factual circumstances.'"), *quoting Chambers v. United Farm Workers Org. Comm.,* 25 Ariz. App. 104, 106, 541 P.2d 567, 569 (1975); *Slade v. Schneider*, 212 Ariz. 176, ¶ 15, 129 P.3d 465, 468 (App. 2006) ("Generally, a court will not consider moot questions.").

Beaman children's claims

¶16 Madrid also contends the trial court erred in dismissing the claims she brought on behalf of the Beaman children. We will uphold the court's findings of fact that relate to the Beaman children's claims unless they are clearly erroneous, but we review its legal determinations de novo. *See In re Estate of Newman*, 532 Ariz. Adv. Rep. 12, ¶ 13. And, "[w]e will uphold a probate court's ruling if correct, even if the court reached the right conclusion for the wrong reason." *In re Estate of Wyttenbach*, No. 1 CA-CV 07-0012, ¶ 27, 2008 WL 3906351 (Ariz. Ct. App. Aug. 26, 2008), *citing State v. Koch*, 138 Ariz. 99, 102, 673 P.2d 297, 300 (1983).

¶17 The Beaman children's claim was filed on their behalf by Madrid. However, a minor may only bring a claim against an estate "by a legally appointed general guardian, or next friend or a guardian ad litem." *Pintek v. Superior Court*, 78 Ariz. 179, 183-84, 277 P.2d 265, 268 (1954). Madrid does not contend, nor does the record establish, that the trial court had appointed either a guardian ad litem to represent the children, *see* A.R.S. § 14-1403(4), or Madrid to serve as the children's next friend. Rather, she contends she brought the claim as the children's legal guardian. A person may become a minor's legal guardian, however, only "by acceptance of a testamentary appointment or upon appointment by the court," neither of which occurred here. A.R.S. § 14-5201; *see* A.R.S. § 14-5207. Madrid, nonetheless, asserted below that she could bring the claim on the children's behalf because she had been appointed by the children's father "to act as [the Beaman children's]

parent and guardian" pursuant to a Military Power of Attorney, which Madrid attached to the children's claims. *See* A.R.S. § 14-5107 (permitting military parent to temporarily delegate "any powers the parent or guardian have regarding care, custody or property of the minor child," except power to consent to minor's marriage or adoption).

¶18 Assuming, without deciding, the power of attorney upon which Madrid relies indeed granted her the authority to file a claim on behalf of the children, it expired on August 5, 2006—before the trial court denied the children's claims and entered a final, appealable judgment, and before she appealed that denial on the children's behalf. "When the power of attorney [delegating parental powers] expires, the legal authority to care for the children terminates. As such, the person . . . no longer has legal power, authority, or obligation with regard to the welfare of the child." *In re Martin*, 602 N.W.2d 630, 632 (Mich. Ct. App. 1999). Thus, even if the power of attorney had granted Madrid the authority to pursue claims against the estate on behalf of the Beaman children, that authority ceased upon the expiration of the power. Thereafter, she had no standing to maintain the action or pursue this appeal on their behalf. *See id.* Accordingly, we do not address this portion of her appeal further.

Madrid's claim

¶19 Madrid asserts the trial court erred in denying her claim against the estate. Although we review questions of law de novo, we will not disturb the trial court's findings of fact unless they are clearly erroneous. *See In re Estate of Newman*, 532 Ariz. Adv.

Rep. 12, ¶ 13. We do not reweigh the evidence on appeal. *In re Estate of Pouser*, 193 Ariz. 574, ¶ 13, 975 P.2d 704, 709 (1999). We will only reverse the court's determination if no substantial evidence supported it, that is, if there was no evidence upon which a reasonable person could reach the trial court's result. *Id.*

¶20 Madrid claimed she had loaned Williams $34,750, which he had failed to repay. In a hearing on her claim, Madrid testified she had loaned Williams $70,000 to pay overdue land and mortgage payments and other household expenses. She further testified she and Williams had later renegotiated the debt to approximately $37,000. In support of her claims, Madrid submitted copies of payment receipts and bank statements. Madrid also asserts she submitted supporting statements from seven individuals. But none of these statements corroborated Madrid's testimony that she had loaned Williams money, and only one of the statements—a copy of a letter sent by electronic mail—asserts Madrid had given Williams money to help pay his overdue mortgage and land payments. In denying Madrid's claim, the trial court noted the documents Madrid had submitted merely showed she "use[d] her credit cards and certain personal assets to pay for normal, common, and usual living expenses for two people living together." Madrid, the court concluded, "provided no documentation to support [her] claim of a loan" and "failed to meet her burden of proof that there was an oral agreement . . . whereby [Williams] agreed that the claimed sums were a loan to him and he agreed to pay her back."

¶21 Madrid asserts it is inconsistent that the trial court "apparently disbelieved" her testimony that the sums were a loan, yet "obviously believed the other claimants with respect to their oral agreements." She further questions the court's reasoning in finding her testimony regarding the loan not credible, because the court had found her supporting documentation "true and correct" and noted Madrid had been "open and honest" in admitting she had "guesstimate[d]" some of her expenditures. But it is the for the trial court to assess the credibility of witnesses. *In re Estate of Zaritsky*, 198 Ariz. 599, ¶ 5, 12 P.3d 1203, 1205 (App. 2000). In doing so, it is within the court's discretion to disbelieve certain witnesses or portions of their testimony. *See id.* Madrid cites no authority supporting her apparent assertion to the contrary.

¶22 Relying on *Cook v. Cook*, 142 Ariz. 573, 691 P.2d 664 (1984), Madrid next argues that, even if no agreement existed between her and Williams, "equity will allow [her] a share of the property in proportion to her actual investment in [Williams's] property." Although Madrid relied on *Cook* in the trial court, she relied only on those portions of *Cook* standing for the proposition that a court may "find that a contract existed just by [the parties'] conduct," and argued "[her] conduct establishes . . . there was an oral contract." *See Cook*, 142 Ariz. at 576, 691 P.2d at 667. Because Madrid did not assert below she was entitled to an interest in Williams's property based on equity principles, she has waived the issue on appeal. *See McDowell Mountain Ranch Land Coal. v. Vizcaino*, 190 Ariz. 1, 5, 945 P.2d 312, 316 (1997) (parties may not raise arguments for the first time on appeal). Madrid,

nonetheless, asks us to review the issue, asserting its "statewide importance." We disagree that this issue is "a suitable candidate for such extraordinary relief" and, in our discretion, decline to address it further. *Id.*

Madrid's objection to Newman's claim, personal representative, and excusing bond

¶23 Madrid contends the trial court erred in granting Kerry Newman's claim against the estate, allowing April Kaiser to serve as the estate's personal representative, and determining Kaiser was not required to post a fiduciary bond. But, only "[p]ersons interested in decedents' estates" may object to claims against an estate or to other administrative matters. *See* § 14-3105(A). An "'[i]nterested person' includes any heir, devisee, child, spouse, creditor, beneficiary and other person who has a property right or claim against a trust estate or the estate of a decedent." § 14-1201(26). Because we affirm the court's denial of Madrid's claim, and because Madrid lacks standing to appeal on behalf of the Beaman children, Madrid is not an "[i]nterested person." *See Id*. She, therefore, lacks standing to appeal the court's orders granting Newman's claim, excusing the bond requirement, and allowing Kaiser to continue as the estate's personal representative. *See In re Estate of Griswold*, 13 Ariz. App. 218, 221, 475 P.2d 508, 511 (1970) (husband found to have no interest in deceased wife's estate lacked standing to appeal order refusing to revoke letters of administration); *In re Estate of Armstrong*, 155 S.W.3d 448, 452 (Tex. App. 2004) ("'A mere interloper has no . . . right to intervene in the administration of a decedent's estate. . . . [A]llowing uninterested [people] to interfere . . . by merely alleging a factual scenario that,

if true, would qualify them as "interested persons" is repugnant to the public policy of this state.'"), *quoting A & W Indus. v. Day*, 977 S.W.2d 738, 742 (Tex. App. 1998) (third alternation in *Armstrong*); *see also In re Estate of Friedman*, 217 Ariz. 548, ¶ 9, 177 P.3d 290, 293-94 (App. 2008) (party aggrieved by judgment can only appeal adverse part).

Madrid's request for attorney fees and costs

¶24 Last, Madrid asserts that, because the trial court granted her request for formal probate, it erred in denying her request for attorney fees and costs "under the common fund doctrine" made after the court denied her claims against the estate. *See In re Estate of Shano*, 177 Ariz. 550, 558, 869 P.2d 1203, 1211 (App. 1993). As Madrid notes, "persons who employ attorneys for the preservation of a common fund may be entitled to have their attorney's fees paid out of that fund." *Id.* But "'[w]hether and to what extent such fees should be allowed is a question best left to the probate court to decide *in the sound exercise of its discretion* on a case-by-case basis.'" *Id.* at 558-59, 869 P.2d 1211-12, *quoting In re Estate of Brown*, 137 Ariz. 309, 313, 670 P.2d 414, 418 (App. 1983) (alterations in *Shano*).

¶25 Although Madrid's request for formal probate, objections to Kaiser serving as the estate's personal representative, and objections to the trial court's excusing the bond requirement arguably benefitted the estate by resulting in the court's granting formal probate, ordering supervised administration of the estate, and ordering that Kaiser place the estate's assets in a court-controlled bank account, we agree with the court's implicit conclusion that Madrid's numerous unsuccessful motions "contributed to waste and delay in the handling of

the estate and caused [the estate] to incur unnecessary attorney's fees." *Id.* at 559, 869 P.2d at 1212. "Under these circumstances, the probate court's refusal to impose on the estate [Madrid's attorney] fees was not an abuse of discretion." *Id.*

Rule 25, Ariz. R. Civ. App. P., Sanctions

¶26 In her answering brief, Newman asks us to impose sanctions against Madrid and her counsel pursuant to Rule 25, Ariz. R. Civ. App. P. That rule authorizes an appellate court to grant attorney fees or other "reasonable penalties or damages" when the appeal "is frivolous or taken solely for the purpose of delay." Ariz. R. Civ. App. P. 25. Newman asserts sanctions are appropriate here because Madrid's arguments that Williams "may be alive" and the original judge's recusal was ineffective were frivolous, "raised for the sole purpose of delay," and raised to "confuse the issues." She further contends those arguments "are not supportable by any reasonable legal theory and there is no colorable legal argument which could make reasonable attorneys differ." *See In re Levine*, 174 Ariz. 146, 153, 847 P.2d 1093, 1100 (1993). We agree both that Rule 25 permits sanctions against clients and their attorneys and that sanctions are appropriate here. Accordingly, in our discretion, we grant Newman's request and award her reasonable attorney fees against Madrid and her counsel as to those claims, pending Newman's compliance with Rule 21(c), Ariz. R. Civ. App. P.

The estate's request for sanctions

¶27 The estate also requests sanctions against Madrid, alleging her "entire appeal lacks merit." But we deny that request because the estate has failed to cite any legal authority to support it. *See In re Wilcox Revocable Trust*, 192 Ariz. 337, ¶ 21, 965 P.2d 71, 75 (App. 1998) ("We award no attorney's fees where no basis for the award is cited to us.").

Disposition

¶28 For the foregoing reasons, we vacate the trial court's order imposing sanctions against Madrid pursuant to Rule 11, Ariz. R. Civ. P., but affirm the remainder of the judgment. We also grant Newman attorney fees as a sanction against Madrid and her attorney, pursuant to Rule 25, Ariz. R. Civ. App. P., as to those portions of Newman's response to Madrid's appellate claims that Williams's death had not been proven and the original trial judge's recusal was ineffective.

J. WILLIAM BRAMMER, JR., Judge

CONCURRING:

JOSEPH W. HOWARD, Presiding Judge

JOHN PELANDER, Chief Judge